

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LARRY DEAN PADILLA,

Plaintiff,

v.

M. S. EVANS.

Defendants.

CASE NO. C 06-1725 JF

**[PROPOSED] ORDER
GRANTING DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT**

Plaintiff is a state prisoner proceeding *pro se* with a civil rights action under 42 U.S.C. § 1983 alleging Defendant Evans violated his Eighth Amendment right to be free from cruel and unusual punishment in failing to provide Plaintiff with adequate outdoor exercise from January 1 through January 26, 2005. Plaintiff also alleges that Defendant Evans violated his right to equal protection under the Fourteenth Amendment in failing to provide inmates housed in his housing unit with the same amount of outdoor exercise as enjoyed by inmates housed within the general population.

Defendant Evans filed a Motion for Summary Judgment under Rule 56(c) of the Federal Rules of Civil Procedure. The Court has considered all supporting and opposing arguments, and finds that there is no genuine issue of material fact with respect to Plaintiff's Eighth and Fourteenth Amendment claims. Accordingly, Defendant Evans is entitled to judgment as a matter of law. The Court further finds that Defendant Evans is entitled to qualified immunity for his actions. Accordingly, Defendant's motion for summary judgment is GRANTED.

Dated:

The Honorable Jeremy Fogel
United States District Judge